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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,533	06/29/2001	Tom Bachr-Jones	0007975-0012	8414
30076	7590	07/06/2005	EXAMINER	
BROWN RAYSMAN MILLSTEIN FELDER & STEINER, LLP 1880 CENTURY PARK EAST 12TH FLOOR LOS ANGELES, CA 90067			STEVENS, THOMAS H	
			ART UNIT	PAPER NUMBER
			2123	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/896,533

Applicant(s)

BAEHR-JONES ET AL.

Examiner

Thomas H. Stevens

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/25/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-24 were examined.

Section I: Response to Applicants' Arguments (1st Office Action)

Information Disclosure Statement

2. The information disclosure statement filed 4/25/05 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609.

Priority

3. MPEP 706.02 states

If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are **fully supported under first paragraph of 35 U.S.C. 112 by the provisional application.**

In this instance, segments of the claims are not fully supportive by the provisional application 60/215,224: claim 6, "non-embarrassingly parallel"; claim 15, "dynamic load balancer"; and claim 16, "binary inserter". Objection stands.

35 USC § 101

4. Applicants are thanked for addressing this issue. Examiner acknowledges applicants case law reference and other arguments; however, for future reference, examiner suggest changing the wording the independent claims. For example:

Claim 1—*A method for one or more parallel processors for distributed computation comprising: defining a problem as a Cartesian grid; obtaining a*

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*computation of one or more processors; mapping said Cartesian grid to said computation domain; choosing a property for load balance; splitting into a binary tree which are sub-divided by recursive process; **bundle all shared memory space until each group has only one processor.***

Changing of the preamble will negate the mathematical event issue while adding the last phrase (highlight emphasized). Rejection stands

35 USC § 102

5. Applicants are thanked for addressing this issue. In this instance applicants have alleged the prior art does not suggest teaching by another. Although Hochberg and Jones are the true inventors, the prior art discloses Sherer, Lawton and Simulant Inc. as the key personal, thus denoting their skills and devotion (i.e., their scientific background and financial stake). Since applicants have not provided specifics or affidavits regarding inventorship, the rejection stands.

Section II: Final Rejection (2nd Office Action)

Priority

6. MPEP 706.02 states

If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are **fully supported under first paragraph of 35 U.S.C. 112 by the provisional application.**

In this instance, segments of the claims are not fully supportive by the provisional application 60/215,224 (e.g., claim 6, "non-embarrassingly parallel"; claim 15, "dynamic load balancer"; and claim 16, "binary inserter").

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Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-24 are rejected under 35 U.S.C. 101 because the claims (e.g., claim 1) fail to recite post-solution activity with the preamble reciting a mathematical process.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Hochberg et al., ("Simulant Inc" December (2000)). Hochberg et al., teaches a method and apparatus called a Feonor System, which places an algorithm that enables the Feonor System to be distributed across multiple computers (Note: Start up company disclosed invention on 12 December 2000).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (8:00 am- 4:30 pm) or contact Supervisor Mr. Leo Picard at (571) 272-3749. Fax number is 571-273-3715.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

June 28, 2005


Paul L. Rodriguez 7/1/05
Primary Examiner
Art Unit 2125

THS